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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA,) CR No. 08-70837 EMC
17 Plaintiff,) STIPULATION AND [PROPOSED] ORDER
18 v.) EXCLUDING TIME UNDER FED. R. CRIM.
19 ERNESTO GALLEGOS,) P. 5.1 and 18 U.S.C. § 3161
20 a/k/a ERNESTO GALLEGOS-)
21 HERNANDEZ,)
22 a/k/a ERNESTO HERNANDEZ,)
Defendant.)
23

24 On December 10, 2008, the parties in this case appeared before the Court for the
25 defendant's detention hearing. At that time, the parties requested, and the Court agreed, to set
26 the date for the defendant's preliminary hearing or arraignment on January 8, 2009. The parties
27 also requested that pursuant to Federal Rule of Criminal Procedure ("FRCP") 5.1(d), the time
28 limits set forth in FRCP 5.1(c) be extended through January 8, 2009. The parties agree that,

STIP. & [PROPOSED] ORDER EXCL. TIME
CR 08-70837 EMC

FILED

DEC 12 2008

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 taking into account the public interest in prompt disposition of criminal cases, good cause exists
2 for this extension.

3 The defendant also agrees to exclude for this period of time any time limits applicable
4 under 18 U.S.C. § 3161. The parties represented that granting the continuance was the
5 reasonable time necessary for continuity of defense counsel. 18 U.S.C. § 3161(h)(8)(B)(iv). The
6 parties also agreed that the ends of justice served by granting such a continuance outweighed the
7 best interests of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

8 SO STIPULATED:

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10 JOSEPH P. RUSSONIELLO
United States Attorney

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12 DATED: December 10, 2008 /s/
13 TAREK J. HELOU
Assistant United States Attorney

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15 DATED: December 10, 2008 /s/
16 JODI LINKER
Attorney for Defendant ERNESTO GALLEGOS

17 For the reasons stated above, the Court finds that the extension of time for the defendant's
18 preliminary hearing or arraignment through January 8, 2009 is warranted and that the ends of
19 justice served by the continuance outweigh the best interests of the public and the defendant in a
20 speedy trial. 18 U.S.C. §3161 (h)(8)(A); FRCP 5.1(d). The failure to grant the requested
21 continuance would deny the defendant effective preparation of counsel, and would result in a
22 miscarriage of justice. 18 U.S.C. §3161(h)(8)(B)(iv).

23
24 SO ORDERED.

25
26 DATED: 12/11/08 THE HONORABLE EDWARD M. CHEN
27
United States Magistrate Judge